

THIRTEENTH DAY.

(Continued.)

Senate Chamber,
Austin, Texas,
October 3, 1935.

The Senate met at 10 o'clock a. m., pursuant to recess, and was called to order by Lieutenant Governor Walter F. Woodul.

S. C. R. No. 3.

Senator Hornsby was recognized to send up the following resolution:

Whereas, The Senate of Texas by appropriate resolution, has secured a painting of Honorable Jesse Holman Jones, one of Texas leaders and builders and at present Chairman of the Reconstruction Finance Corporation; and,

Whereas, On October 7, 1935, this painting will, with appropriate exercises, be dedicated, and it appears that there will be a great number of people present on that occasion and that the Senate Chamber will be entirely inadequate to hold such exercises; and,

Whereas, The occasion justifies a joint session of the House and Senate; now, therefore, be it

Resolved by the Senate, the House concurring, That a joint session be held in the Hall of the House of Representatives at 2 p. m., Monday, October 7, 1935, for the purpose of dedicating such painting and hearing the distinguished citizens present on this occasion.

HORNSBY.

Read.

Senator Hornsby asked unanimous consent that the rule requiring resolutions to be referred to a committee be suspended and that S. C. R. No. 3 be taken up at this time.

Unanimous consent was granted.

S. C. R. No. 3 was adopted by viva voce vote.

Senate Bill No. 17.

Pending business was S. B. No. 17.

The question recurred on the pending motion to table the pending motion by Senator Rawlings.

The motion to table prevailed by the following vote:

Yeas—16.

Beck.
Blackert.
Collie.

Davis.
DeBerry.
Holbrook.

Hornsby.
Neal.
Nelson.
Oneal.
Pace.

Regan.
Stone.
Sulak.
Van Zandt.
Woodruff.

Nays—9.

Burns.
Cotten.
Hill.
Isbell.
Martin.

Rawlings.
Sanderford.
Small.
Westerfeld.

Absent.

Hopkins.
Poage.

Redditt.
Shivers.

Absent—Excused.

Fellbaum.

Moore.

Senator Holbrook sent up the following amendments:

Amend Section 2 by adding at the end thereof the following paragraph:

Liens for general ad valorem taxes assessed by the State of Texas and any county, city or other taxing subdivision thereof shall be of equal rank and dignity regardless of the years in which the liens became or shall hereafter become effective.

HOLBROOK.

Read and adopted.

Amend Subdivision 2 of Section 9 by inserting after the tenth word

of line six the words: "the Tax Collector the tax receipt showing the payment of such taxes by"

HOLBROOK.

Read and adopted.

Amend Subdivision 6 of Section 9 so as to read as follows:

No tax lien as to which a certificate of transfer has been issued, as provided in this section of this act, shall be foreclosed, by Sheriff's sale or otherwise, within twelve (12) months from the issuance of the certificate of transfer unless the owner of the property and the transferee of the tax lien shall, in writing, agree upon a shorter period of limitation, in which event the said agreement of the parties shall control.

HOLBROOK.

Read.

Motion to Table.

Senator Van Zandt moved to table the amendment.

Point of Order.

Senator Rawlings raised the point of order that a motion to table was pending therefore discussion was cut off.

The Chair sustained the point of order.

The motion to table failed by viva voce vote.

The amendment was adopted by the following vote:

Yeas—14.

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| Blackert. | Nelson. |
| Collie. | Oneal. |
| Davis. | Poage. |
| Holbrook. | Regan. |
| Hornsby. | Stone. |
| Martin. | Sulak. |
| Neal. | Woodruff. |

Nays—11.

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| Beck. | Rawlings. |
| Burns. | Redditt. |
| Cotton. | Sanderford. |
| Hill. | Shivers. |
| Isbell. | Van Zandt. |
| Pace. | |

Present—Not Voting.
DeBerry.

Absent.

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| Hopkins. | Westerfeld. |
| Small. | |

Absent—Excused.

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| Fellbaum. | Moore. |
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Amend Section 20 by adding at the end thereof a new sentence to read as follows:

Where any city or town desires to avail itself of the provisions of this Act as to city taxes the governing body of such city or town shall, with respect thereto, perform all the functions of the Commissioners Court above enumerated, and may by ordinance designate officers of the city or town who shall perform all the functions of the State Comptroller, the Sheriff or other state or county officers in this Act enumerated.

HOLBROOK.

Read and adopted.

Amend Subdivision 8 of Section 9 so as to read as follows:

Sales for the purpose of enforcing tax liens as to which certificates of transfer have been issued shall be

conducted at the same time and place and in the same manner and with the same effect as sales for the purpose of enforcing tax liens as to which certificates of transfer have not been issued; and the same right of redemption shall apply.

HOLBROOK.

Read and adopted.

Amend Subdivision 7 of Section 9 so as to read as follows:

At any time after twelve (12) months from the date of any certificate of transfer, or sooner if so provided by agreement in writing between the owner of the property and the holder of the certificate of transfer, the holder of any certificate of transfer issued pursuant to the provisions of this section of this act shall have the right to invoke for the enforcement of the tax lien evidenced by said certificate of transfer the rights, remedies and procedures prescribed by this act for the enforcement of tax liens as to which no certificate of transfer has been issued; and it shall be the duty of the several sheriffs of this state, when so requested by the holder of any certificate of transfer, as to which the above described period of limitation has expired, to sell the property as to which said certificate of transfer was issued in the manner prescribed by Article 7324 (d), and after first giving the notices prescribed in Article 7324 (c), as fully as though said certificate of transfer had not been issued and said tax liens were being enforced for the benefit of the taxing authority by which the taxes were assessed; provided, however, that the holder of the certificate of transfer shall first indemnify the sheriff against all costs and expenses which it shall be necessary for him to incur in conducting said sale and serving the notices required in connection therewith.

HOLBROOK.

Read.

Second reading was called for.

Senator Martin was recognized to discuss the amendment.

Motion to Table.

Senator Rawlings moved to table the amendment by Senator Holbrook.

The motion to table prevailed by the following vote:

Yeas—21.

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| Beck. | Nelson. |
| Blackert. | Oneal. |
| Burns. | Poage. |
| Collie. | Rawlings. |
| Cotten. | Regan. |
| Davis. | Sanderford. |
| DeBerry. | Shivers. |
| Hill. | Sulak. |
| Hornsby. | Van Zandt. |
| Isbell. | Westerfeld. |
| Martin. | |

Nays—1.

Holbrook.

Absent.

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| Neal. | Small. |
| Pace. | Stone. |
| Redditt. | Woodruff. |

Absent—Excused.

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| Fellbaum. | Moore. |
| Hopkins. | |

Senate Bill No. 44.

Senator Shivers received unanimous consent to suspend the regular order of business and sent up the following bill:

By Senator Fellbaum:

S. B. No. 44, A bill to be entitled "An Act validating the organization of water control and improvement districts and validating all acts of the officials in creating such districts; and validating all bonds issued and all bonds voted but not yet issued by such districts; validating all acts of the officials of said district and declaring an emergency."

Read and referred to the Committee on Civil Jurisprudence.

S. C. R. No. 4.

Senator Martin received unanimous consent to send up the following resolution:

By Martin. S. C. R. No. 4.

A Concurrent Resolution

Permitting Mr. H. C. Brannon, and wife, Joe Brannon, to sue the State.

Whereas, Prior to the 18th day of June, A. D. 1935, the State of Texas acting by and through its Park Board constructed an earthen tank in the Jefferson Park situated about two miles east of the City of Hillsboro in Hill County, Texas; and,

Whereas, The said tank was constructed at the same place, that is, on the same spot of ground where there had previously been another tank but not of the same depth; and

Whereas, The said tank so constructed and built was of exceedingly great depth for a small park and ground as the Jefferson Park is; and,

Whereas, After the said tank was constructed, due to heavy rains the same was filled with water which was very deep in practically all parts of the said tank; and

Whereas, The said Park Board failed to place any signs or notices of any kind at or near or in the said tank notifying persons who might come on or about the same as to the depth of the waters, and neither did they place any ropes or other means of escaping from the said water by those who could not swim on or across the said tank; and,

Whereas, They kept no guard on duty there to advise the public as to the nature and character of the tank and the depth of the water of the same; and,

Whereas, By reason of the construction of the said tank and the placing of no signs or warning of any kind to the public on or about the said tank, and by leaving no guard on duty to advise the general public as to the dangers of the water in the said tank, the same became a decoy or an inducement inviting those who came near to enter the same; and,

Whereas, On or about the 18th day of June, 1935, one Donald Roy Brannon, a child eleven years of age, being the son of Mr. H. C. Brannon and wife, Joe Brannon, appeared at the said tank in company with other children of about his age, and being desirous of entering into the said tank for the purpose of playing in the waters, which he presumed to be shallow and without danger, did go into the said tank and was drowned; and,

Whereas, The said H. C. Brannon and wife, Joe Brannon, was compelled to expend large sums of money in caring for the last remains of the said Donald Roy Brannon, and also sustained other damages by reason of the loss of the said child; therefore, be it

Resolved by the Senate, the House of Representatives concurring, That the said H. C. Brannon and wife, Joe Brannon, be, and they are hereby granted permission to bring suit against the State of Texas in a court of competent jurisdiction in order to determine compensation for damages received and that service of citation or other necessary process may be had upon the State of Texas by delivering a copy of the said pleading thereto to Honorable D. E. Colp, Chairman of the Park Board of the State of Texas, as in other civil cases.

Read and referred to the Committee on State Affairs.

Messages from the House.

The Chair recognized the Door-keeper, who introduced a messenger from the House with the following messages:

Hall of the House of Representatives,
Austin, Texas, Oct. 3, 1935.
Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolution:

S. C. R. No. 2, Granting permission to Miss Hattie Ray Watson to sue the State of Texas and State Highway Commission for personal injuries.

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Hall of the House of Representatives,
Austin, Texas, Oct. 3, 1935.
Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 21, A bill to be entitled "An Act to amend Article 7060 Revised Civil Statutes of the State of Texas, and declaring an emergency."

H. B. No. 52, A bill to be entitled "An Act amending Subdivision (h) Section 5, Chapter 116, Acts of Forty-third Legislature, and declaring an emergency."

H. B. No. 97, A bill to be entitled "An Act validating the organization of water control and improvement districts and validating all acts of the officials in creating such districts; and validating all bonds issued and all bonds voted but not yet issued by such districts; validating all acts of

the officials of said districts and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Bill and Resolution Signed.

The Chair, Lieutenant Governor Walter F. Woodul, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bill and resolution:

H. B. No. 36.

S. C. R. No. 2.

Bills Referred.

H. B. No. 48 was read and referred to the Committee on Civil Jurisprudence.

H. B. No. 21 was referred to the Committee on State Affairs.

H. B. No. 52 was referred to the Committee on State Affairs.

H. B. No. 97 was referred to the Committee on Civil Jurisprudence.

Senate Resolution No. 14.

Senator Beck sent up S. R. No. 14 memorializing Thomas L. L. Temple.

S. R. No. 14 was adopted unanimously.

Senate Bill No. 17.

Senator Van Zandt moved to reconsider the vote by which the third amendment to S. B. No. 17 offered today, by Senator Holbrook, was adopted.

Motion to Table.

Senator Holbrook moved to table the motion to reconsider.

The motion to table lost by viva voce vote.

The motion to reconsider prevailed by viva voce vote.

Motion to Table the Amendment.

Senator Van Zandt moved to table the amendment.

The motion to table prevailed by viva voce vote.

Amend S. B. No. 17 as amended by inserting on page 8, line 24, between the words "by" and "posting" the following:

"by publishing in some newspaper of general circulation published in the county where the property is located, or if there be no newspaper

in the county, then in the adjoining county and by"

SLUAK.

Read.

Senator Sulak moved the adoption of the amendment.

Motion to Table.

Senator Davis moved to table the amendment by Senator Sulak.

The motion to table prevailed by the following vote:

Yeas—15.

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| Cotten. | Neal. |
| Davis. | Nelson. |
| DeBerry. | Oneal. |
| Hill. | Pace. |
| Holbrook. | Poage. |
| Hornsby. | Van Zandt. |
| Isbell. | Woodruff. |
| Martin. | |

Nays—9.

| | |
|-----------|-------------|
| Beck. | Regan. |
| Blackert. | Shivers. |
| Burns. | Sulak. |
| Collie. | Westerfeld. |
| Rawlings. | |

Absent.

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| Hopkins. | Small. |
| Redditt. | Stone. |
| Sanderford. | |

Absent—Excused.

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| Fellbaum. | Moore. |
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Amend S. B. No. 17, as amended, Section 2, Page 4, by striking out amendment No. 16, by DeBerry, and substituting the following therefor:

"The Assessor and Collector of Taxes of any County and/or any political sub-division in the State shall issue on request certificates showing the status of delinquent taxes on property described in such request or certificate and rendered or assessed in the name of the applicant or in the name or names of any other persons designated in the request or certificate, and when such certificate shows taxes to have been fully paid, same shall be conclusive evidence of such payment. In every instance when such a certificate is so issued, the Tax Collector issuing same or his predecessor in error shall be liable in damages to the State or political sub-division to which such taxes are due in an amount equal to all back taxes that may be due and not revealed in the certificate.

No charges shall be made for such certificate when prepared for the personal use of the property owner; provided however that when certificates are requested by persons other than the owner of the property or for commercial purposes, a chain of title may be required and a charge of one dollar shall be made, which shall be accounted for as fees as provided by law.

No charge shall be made for tax statements either current or delinquent."

POAGE.

Read and pending.

Motion to Table.

Senator DeBerry moved to table the amendment.

Second reading called for.

The motion to table lost by the following vote:

Yeas—7.

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| Blackert. | Regan. |
| Burns. | Westerfeld. |
| DeBerry. | Woodruff. |
| Rawlings. | |

Nays—17.

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| Beck. | Nelson. |
| Collie. | Oneal. |
| Davis. | Pace. |
| Hill. | Poage. |
| Holbrook. | Sanderford. |
| Hornsby. | Shivers. |
| Isbell. | Sulak. |
| Martin. | Van Zandt. |
| Neal. | |

Absent.

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| Cotten. | Redditt. |
| Fellbaum. | Small. |
| Hopkins. | Stone. |
| Moore. | |

Motion to Adjourn.

Senator Rawlings at 12:10 o'clock p. m. moved that the Senate adjourn until 10:00 o'clock a. m. Friday.

Motion to Recess.

Senator Woodruff moved that the Senate recess until 2:00 o'clock p. m. today.

The motion to adjourn lost by the following vote:

Yeas—10.

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| Burns. | Regan. |
| DeBerry. | Shivers. |
| Holbrook. | Small. |
| Isbell. | Van Zandt. |
| Rawlings. | Westerfeld. |

Nays—14.

| | |
|-----------|-------------|
| Beck. | Neal. |
| Blackert. | Nelson. |
| Collie. | Pace. |
| Davis. | Poage. |
| Hill. | Sanderford. |
| Hornsby. | Sulak. |
| Martin. | Woodruff. |

Absent.

| | |
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| Cotten. | Redditt. |
| Hopkins. | Stone. |
| Oneal. | |

Absent—Excused.

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| Fellbaum. | Moore. |
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Recess.

Senator Pace moved that the Senate recess until 10:00 o'clock a. m. Friday.

The motion prevailed.

APPENDIX.**Committee on Enrolled Bills.**

Committee Room,

Austin, Texas, Oct. 3, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. C. R. No. 2 carefully examined and compared and find same correctly enrolled.

POAGE, Chairman.

Committee Reports.

Committee Room,

Austin, Texas, Oct. 3, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 41, A bill to be entitled "An Act to amend Section 5, Chapter 186, Acts 39th Legislature, Regular Session, 1925, so as to permit the State Highway Department, in con-

junction with the Bureau of Public Roads, to expend upon roads not a part of the system of State Highways, funds specifically appropriated for expenditure on such roads under the National Industrial Recovery Act, passed by 73rd Congress June 16, 1933, Act of Congress June 18, 1934 (H. R. 8781), and Emergency Relief Appropriation Act passed by 74th Congress on April 8, 1935; to permit such funds to be supplemented for certain purposes from the State Highway Fund; suspending all laws or parts of laws in conflict herewith; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

PACE, Chairman.

Committee Room,

Austin, Texas, Oct. 3, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 42, A bill to be entitled "An Act to amend Article 6672, Chapter 1, Title 116, of the Revised Statutes of Texas, 1925, so as to permit the State Highway Department to expend upon roads not a part of the system of State highways, funds specifically appropriated for expenditure upon such roads under the National Industrial Recovery Act, passed by Seventy-third Congress, June 16, 1933, Act of Seventy-third Congress, June 18, 1934 (H. R. 8781), and Emergency Relief Appropriation Act, passed by Seventy-fourth Congress, April 8, 1935; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

PACE, Chairman.

**In Memory
of
Thomas L. L. Temple**

SENATE RESOLUTION NO. 14.

WHEREAS, On Wednesday morning, October 2, 1935, at his home in Texarkana, Texas, Thomas L. L. Temple was called from his labors in his 76th year; and

WHEREAS, By reason of his long and useful career, particularly in East Texas, and by reason of his many deeds of kindness to his fellow men, and by reason of his great interest in his employees, Mr. Temple's name became a household word throughout many communities in East Texas; and by reason of his life he was revered throughout this State; now therefore be it

RESOLVED, by the Senate of Texas, That in the passing of this good man, it is with sorrow we note that Texas has lost one of its outstanding and most valuable citizens; and that this simple memorial be printed in the Journal, and that a copy of same be mailed to each member of the family of Mr. Temple.

**REDDITT,
BECK.**

Adopted unanimously.